

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 744 OF 2006.

IN

CRIMINAL APPLICATION NO.8231 OF 2005.

M/s.Kotak Mahindra Bank Ltd.

(formernly Kotak Mahindra Finance Ltd.) ... Applicant.

Versus.

Hiten Khatau and another.

... Respondents.

Mrs.Revati Mohite-Dere for the Applicant.

Shri A.S.Shitole, A.P.P. for the Respondent-State.

CORAM : ABHAY S.OKA, J.

DATED : 10th November, 2006.

P.C.:

1. Heard the learned Advocate for the Applicant.

The learned Advocate for the Applicant states that a specific notice that this Application will be heard today has been served to the Advocate appearing for the 1st Respondent in this Criminal Application. None appears for the 1st Respondent.

2. The 1st Respondent herein is arraigned as one of

the accused in a complaint filed by the Applicant under section 138 read with section 141 of the Negotiable Instruments Act, 1881. Criminal Application No.8231 of 2005 was heard for admission on 3rd March 2006. Rule was issued in the said Application and interim relief in terms of prayer clause (b) was granted. Prayer clause

(b) reads thus:

"(b) Pending the hearing and final disposal of this Application, this Hon'ble Court may kindly stay the proceedings being C.C.No. 545 of 2003 pending on the files of the learned Chief Judicial Magistrate, Thane."

3. The learned Advocate appearing for the Applicant submits that the prayer for stay be confined to the Applicant in Criminal Application No.8231 of 2005 so that the case can proceed against the other accused persons. The said request, in my opinion, is a reasonable request. The order of stay cannot enure to the benefit of those accused who have not approached this Court. None appears for the 1st Respondent.

4. Hence the Application is disposed of by the following order:

Interim relief granted on 3rd March 2006 in terms of prayer clause (b) is modified. It is made clear that the interim relief will apply only in favour of the Applicant in Criminal Application No.8231 of 2005 and the pending complaint can proceed against the other Accused.

Judge.